

REMARKS

The present application was filed on July 11, 2003 with claims 1-21, which were previously canceled without prejudice and replaced by new claims 22-41. Claims 25, 30, 31, 37 and 41 were also canceled in prior amendments and claims 42-45 were added. Prior to the present amendment, claims 22-24, 26-29, 32-36, 38-40 and 42-45 were pending, including independent claims 22, 29, 34 and 38.

Claims 29, 32, 33 and 43 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,821,936 (hereinafter "Shaffer") in view of Devec et al., "Design and Evaluation of an Evaluation of an Adaptive Icon Toolbar," User Modeling and User-Adapted Interaction, Vol. 6, No. 1, pp. 1-21, March 1996 (hereinafter "Devec").

Claims 22-24, 26-28, 34-36, 42 and 44-45 are rejected 35 U.S.C. §103(a) as unpatentable over Shaffer and Devec in view of U.S. Patent Application Publication No. 2002/0151992 (hereinafter "Hoffberg").

As a preliminary matter, Applicant gratefully acknowledges the courtesies extended by the Examiner during a telephone interview conducted on September 17, 2009, with Applicant's attorney, David E. Shifren (Reg. No. 59,329). Although Applicant maintains that the claims as previously presented were allowable for at least the reasons identified by Applicant in Applicant's prior responses, Applicant has amended the independent claims in the manner suggested by the Examiner to overcome the cited references.

More particularly, independent claims 22, 34 and 38 have been amended to include limitations wherein the menu items are arranged within a plurality of functional groupings within each of the current menu structure and the new menu structure; wherein a first one of the plurality of functional groupings is a submenu displayed responsive to a selection of at least one menu item within a second one of the plurality of functional groupings; and wherein at least one menu item is within the first one of the plurality of functional groupings in the current menu structure and is within the second one of the plurality of functional groupings in the new menu structure. These limitations are supported by the specification at, for example, page 11, lines 6-12. Applicant respectfully submits that the cited references fail to teach or suggest at least the newly-added limitations of the independent claims.

Applicant has canceled claims 27-29 and 43 without prejudice. Applicant has added new claims 46-49, which include limitations similar to those of claims 32 and 33.

Dependent claims 23, 24, 26, 32, 33, 35, 36, 39, 40, 42 and 44-49 are believed patentable at least by virtue of their dependency from their respective independent claims, which are believed patentable for the reasons identified above. Moreover, these claims are believed to define separately patentable subject matter.

For example, dependent claim 42 includes an additional limitation wherein a displaying step is executed only if the calculated difference exceeds a threshold, the threshold being a number of menu items greater than or equal to two. As noted in Applicant's prior responses, the Examiner argues in rejecting independent claim 29 that Devec, and more particularly the last two paragraphs of page 4 thereof, "clearly indicates that the user may choose to disregard the predefined threshold and only consider toolbar changes at their convenience, thus indicating that the threshold may be user defined (e.g. the threshold may be set [sic] two or more by the user)." Applicant respectfully submits that, even assuming that the combination of Shaffer and Devec did in fact teach or suggest such an arrangement, the proposed combination would nonetheless fail to meet the limitations of claim 42 wherein a displaying step (as opposed to a replacing step) is executed only if the calculated difference exceeds a threshold, the threshold being a number of menu items greater than or equal to two. Dependent claims 44 and 45 include similar limitations and are thus believed to similarly patentable.

In view of the foregoing, Applicant believes that the present application is in condition for allowance, and respectfully requests withdrawal of the aforementioned rejections.

Respectfully submitted,

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